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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,273	01/05/2001	Jun-hee Choi	030681-276	3038

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EXAMINER

GEMMELL, ELIZABETH M

ART UNIT

PAPER NUMBER

2882

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/754,273	CHOI ET AL.
	Examiner Beth Gemmell	Art Unit 2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 10 April 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) 3-13 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 January 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

Receipt is acknowledged of the amendments and election filed 10 April 2003.

### ***Election/Restrictions***

Applicant's election of Group I in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Newly submitted claims 12 and 13 are withdrawn from consideration as being drawn to the non-elected Group II, the method of making a field emission device.

Claims 3-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the resistor layer, below and both below and above the cathode must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

- Page 1, line 17: “faceplate 9”; should be --faceplate 8--.
- Page 1, line 28: “gate 61”; should be --gate 6a--.
- Page 1, line 29: “electrode 76”; should be --electrode 6--.
- Page 2, line 15: The terminology of “a resistor layers” is unclear to the examiner. It should be either --resistor layers-- or --a resistor layer--.

Appropriate correction is required.

### ***Claim Objections***

Claim 2 is objected to because of the following informalities:

- Line 2: The terminology of “a resistor layers” is unclear to the examiner. It should be either --resistor layers-- or --a resistor layer--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Nakamoto (US Patent 6,097,138).

Nakamoto discloses, in figure 16 and throughout the disclosure, a field emission device comprising: a substrate (112); a cathode formed over the substrate (114); micro-tips (118) having nano-sized surface features (122), formed on the cathode; a gate insulation layer (126) with wells each of which a single micro-tip is located in, the gate insulation layer formed over the substrate; and a gate electrode (128) with gates aligned with the wells such that each of the micro-tips is exposed through a corresponding gate, the gate electrode formed on the gate insulation layer.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto in view of Itoh et al. (US Patent 5,892,321).

Nakamoto shows all the limitations as evidenced above.

However, Nakamoto fails to show a resistor layer formed over or beneath or both over and beneath the cathode.

Absent of showing criticality, the choice and substitution of one well known posititon of the resistor layer would have been obvious to one of ordinary skill in the art. Specifically, Itoh et al. discloses, in figure 1 and throughout the disclosure, a resistor layer formed over the cathode (102,2). As evidenced by the applicants' claims to the position of the resistor layer above, below or both above and below the cathode, one of ordinary skill in the art at the time the invention was made would have recognized that the placement of the resistor layer would not alter the function of the FED and would still decrease the amount of emission current radiated from the micro-tips (column 6, lines 40+).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent 6,455,989 discloses micro-tips having nano-sized surface features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Gemmell whose telephone number is (703) 305-1937. The examiner can normally be reached on Monday-Thursday 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703) 305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



emg  
April 25, 2003

DAVID V. BRUCE  
PRIMARY EXAMINER